

AMENDED IN SENATE MARCH 6, 2006
AMENDED IN ASSEMBLY JANUARY 4, 2006
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 120

Introduced by Assembly Member Cohn
(Principal coauthor: Senator Alquist)

January 13, 2005

An act to amend Section ~~1109~~ of the ~~Evidence Code~~, relating to ~~evidence~~; 2684 of, and to add Article 6.5 (commencing with Section 2676) to Chapter 5.7 of Division 2 of, the *Business and Professions Code*, relating to physical therapy.

LEGISLATIVE COUNSEL'S DIGEST

AB 120, as amended, Cohn. ~~Evidence: domestic violence~~. *Physical therapy: continuing education.*

Existing law, the Physical Therapy Practice Act, licenses and regulates the practice of physical therapy by the Physical Therapy Board of California, and establishes educational requirements for licensure. Existing law makes a violation of the act's provisions a crime.

This bill would require a person who renews his or her physical therapy license to submit proof of completion of continuing education hours or other proof of continuing competency, as established by the board, and would require the board to adopt and administer regulations to ensure continuing competency of licensees.

Because a violation of this bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, evidence of a person's character or a trait of his or her character is inadmissible when offered to prove his or her conduct on a particular occasion, except as specified. Existing law provides, however, that when a defendant is accused of an offense involving domestic violence in a criminal action, evidence of the defendant's commission of other domestic violence may be admitted to prove the defendant's conduct, except when the court exercises its discretion to exclude the evidence of prior acts, as specified. "Domestic violence" is defined for purposes of these provisions to include abuse perpetrated against specified persons, if the act occurred no more than 5 years before the charged offense.~~

~~This bill would revise the definition of "domestic violence" to delete the 5-year limitation on the admissibility of prior acts of domestic violence.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6.5 (commencing with Section 2676) is
2 added to Chapter 5.7 of Division 2 of the Business and
3 Professions Code, to read:

4

5 Article 6.5. Continuing Education and Competency

6

7 2676. (a) A person renewing his or her license shall submit
8 proof satisfactory to the board that, during the preceding two
9 years, he or she has completed the required number of
10 continuing education hours established by regulation by the
11 board, or such other proof of continuing competency as the
12 board may establish by regulation. Required continuing
13 education shall not exceed 30 hours every two years.

14 (b) The board shall adopt and administer regulations
15 including, but not limited to, continuing education, intended to

1 *ensure the continuing competency of persons licensed pursuant*
2 *to this chapter.*

3 *SEC. 2. Section 2684 of the Business and Professions Code is*
4 *amended to read:*

5 2684. (a) Notwithstanding Section 2422, any license or
6 approval for the practice of physical therapy shall expire at 12
7 midnight on the last day of the birth month of the licensee or
8 holder of the approval during the second year of a two-year term,
9 if not renewed.

10 (b) To renew an unexpired license or approval, the licensee or
11 the holder of the approval shall, on or before the dates on which
12 it would otherwise expire, apply for renewal on a form prescribed
13 by the board ~~and~~, pay the prescribed renewal fee, *and submit*
14 *proof of the completion of continuing education or competency*
15 *required by the board pursuant to Article 6.5 (commencing with*
16 *Section 2676).* The licensee shall disclose on his or her license
17 renewal application any misdemeanor or other criminal offense
18 for which he or she has been found guilty or to which he or she
19 has pleaded guilty or no contest.

20 (c) A license that has expired may be renewed within five
21 years upon payment of all accrued and unpaid renewal fees *and*
22 *satisfaction of the requirements described in subdivision (b).*

23 *SEC. 3. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the*
28 *penalty for a crime or infraction, within the meaning of Section*
29 *17556 of the Government Code, or changes the definition of a*
30 *crime within the meaning of Section 6 of Article XIII B of the*
31 *California Constitution.*

32 ~~SECTION 1. Section 1109 of the Evidence Code is amended~~
33 ~~to read:~~

34 ~~1109. (a) (1) Except as provided in subdivision (e) or (f), in~~
35 ~~a criminal action in which the defendant is accused of an offense~~
36 ~~involving domestic violence, evidence of the defendant's~~
37 ~~commission of other domestic violence is not made inadmissible~~
38 ~~by Section 1101 if the evidence is not inadmissible pursuant to~~
39 ~~Section 352.~~

~~(2) Except as provided in subdivision (e) or (f), in a criminal action in which the defendant is accused of an offense involving abuse of an elder or dependent person, evidence of the defendant's commission of other abuse of an elder or dependent person is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352.~~

~~(3) Except as provided in subdivision (e) or (f) and subject to a hearing conducted pursuant to Section 352, which shall include consideration of any corroboration and remoteness in time, in a criminal action in which the defendant is accused of an offense involving child abuse, evidence of the defendant's commission of child abuse is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352. Nothing in this paragraph prohibits or limits the admission of evidence pursuant to subdivision (b) of Section 1101.~~

~~(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, in compliance with the provisions of Section 1054.7 of the Penal Code.~~

~~(c) This section shall not be construed to limit or preclude the admission or consideration of evidence under any other statute or case law.~~

~~(d) As used in this section:~~

~~(1) "Abuse of an elder or dependent person" means physical or sexual abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment that results in physical harm, pain, or mental suffering, the deprivation of care by a caregiver, or other deprivation by a custodian or provider of goods or services that are necessary to avoid physical harm or mental suffering.~~

~~(2) "Child abuse" means an act proscribed by Section 273d of the Penal Code.~~

~~(3) "Domestic violence" has the meaning set forth in Section 13700 of the Penal Code. Subject to a hearing conducted pursuant to Section 352, which shall include consideration of any corroboration and remoteness in time, "domestic violence" has the further meaning as set forth in Section 6211 of the Family Code.~~

~~(e) Evidence of acts occurring more than 10 years before the charged offense is inadmissible under this section, unless the~~

1 ~~court determines that the admission of this evidence is in the~~
2 ~~interest of justice.~~
3 ~~(f) Evidence of the findings and determinations of~~
4 ~~administrative agencies regulating the conduct of health facilities~~
5 ~~licensed under Section 1250 of the Health and Safety Code is~~
6 ~~inadmissible under this section.~~

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